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Our Weekly Safety Tip provides valuable and current safety information relevant for Work, Home & Play.

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Safety Slogan

**Safety in – we win
James Lehrke-SCI**

of the week

SCI Safety Tip: Addressing Medical Marijuana in the Workplace

Sources: <http://www.blr.com>

Date: August 24, 2012

Currently 17 states and the District of Columbia have legalized [medical marijuana](#)—most of them for what Arizona calls "qualified patients," which are defined differently by different states. We mention Arizona because one of that state's lawyers—Dinita L. James, a partner in labor and employment firm Ford & Harrison's Phoenix office—believes the Arizona law could be the best-designed in the nation.

Each state is different. California was the first state to allow such use, in 1996, and its law may be the least strict in the nation. Connecticut is the most recent; its law will go into effect October 2012. The others are Alaska, Colorado, Delaware, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington.

Arizona's law used the state's health officials to divide it into 126 geographic regions, each of which can have licensed dispensaries for marijuana. They must offer educational material to patients, follow security rules for storage and tracking of the drug, and be supervised by a medical director. In general, the states' medical marijuana laws only protect qualified users from criminal prosecution for doing something that federal law still prohibits.

James reports that Arizona is one of only three states—Connecticut and Rhode Island are the others—that contains some protections for employees while they are at work. In four other states—California, Michigan, Montana, and Washington—applicants or employees who tested positive for marijuana were rejected or fired for violating the employers' drug-free workplace policies. Note that all four were qualified to use the drug for medical purposes. Note, too, that the drug stays in an individual's system for an average of 13 days after its use.

In 2011, Arizona modified its Drug Testing of Employees Act to list what the state calls symptoms of impairment that mean an employee has used the drug too recently to be reliable at work. Symptoms include effects on speech, walking, or appearance; carelessness; involvement in an accident; and others.

James says that "the clear intent of this legislation is to give employers maximum leeway to make a good-faith determination that an employee is

impaired by medical marijuana on the job." There is more about Arizona's law on James's blog at <http://www.arizoneout.blogspot.com>. She adds that Colorado's legislature tried to set an impairment standard based on science. "But there's no scientific agreement about impairment," she says. "Marijuana affects people differently."

Employers are responsible, though. Most employers in states where the drug is legal bar employees from using it during the workday and from bringing it into the workplace. But employers' responsibilities go well beyond that.

Employers in states with medical marijuana laws can still prohibit the use of marijuana in the workplace. Furthermore, employers that have "zero tolerance" workplace substance abuse policies can continue to rely on the fact that marijuana is illegal under the federal *Controlled Substances Act*, even if individuals using medical marijuana may be released of criminal liability under certain states' laws. However, these state laws may continue to pose accommodation issues under state disability discrimination statutes for use outside the workplace.

Under OSHA's General Duty Clause, employers must maintain safe workplaces. OSHA specifically includes impairment by drugs (legal, prescribed, or illegal) as a potentially avoidable workplace hazard. So any employee who is impaired must be prevented from injuring himself, co-workers, or members of the public, especially with a motor vehicle. And, employers must identify all safety-sensitive jobs in the workplace—such as those working with moving machine parts or driving company vehicles—and barring medical marijuana users from those jobs, even if they show no signs of impairment and never use the drug during work hours.

Furthermore, the Omnibus Transportation Employee Testing Act requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries.

When asked for her overview of legal medical marijuana use, James first explained that in each state that has made it legal, the issue was raised by voter initiative. "This isn't going away. The public's perspective is increasingly favorable toward marijuana use, especially medical use. Employers should avoid having a knee-jerk negative reaction to marijuana use. Remember that alcohol and some prescription drugs, all of which are legal, can also impair employees. If increasing numbers of state laws lead employers to grapple with the issue, that's a good thing."

Practical tips: It is advisable to treat employees who self-identify as medical marijuana users and test positive for marijuana use very carefully. If the employer can show that the employee was impaired at the time the drug test was administered (i.e., the test showed elevated levels of drug use consistent with impairment, or the employer had a reasonable suspicion of impairment based on the employee's appearance or behavior), the employer will most likely be able to prove a violation of its drug policy.

Train supervisors to be responsible for monitoring employee performance, staying alert to performance problems, and enforcing the drug policy. However, it is not the job of supervisors to diagnose problems or counsel employees. Employees need to know all they can about the program in order to use and benefit from it. Effective education addresses company-specific details about the policy and program through workplace displays, brown-bag sessions, and new-hire orientation.

SCI OSHA News: NIOSH guide offers quick access to OSH resources

Source: <http://www.blr.com>

Date: September 6, 2012

A new guide released by NIOSH aims to help small business owners navigate the maze of occupational safety and health information. Small businesses often lack staff dedicated to addressing worker protection. The *Small Business Safety and Health Resource Guide* provides information on regulations, training materials, and recommendations. The 70 percent of United States workplaces that have fewer than 20 employees suffer higher fatality rates than larger organizations. Job safety duties are often delegated to the human resources director or other staff members. According to NIOSH, "This may create a barrier for small businesses trying to shift through technical safety and health documents to understand what information is critical for them to know."

The new guide contains summaries of, and links to more than 50 websites. Each was reviewed for relevance, ease of use, cost, and credibility. NIOSH will update the publication based on user feedback.

The [Small Business Safety and Health Resource Guide](#) is available for download on the CDC's NIOSH website.

HEALTHY BITES

Quick Tips for Healthy Living



MENTAL AND EMOTIONAL HEALTH

GENERAL

- If Mom's depressed, here's another reason she should seek help: Lifting Mom's depression boosts her children's mental health too.
 - Research in the journal Psychological Science shows stress is higher in children of depressed parents. But if you're a mom or dad with depression, don't let that get you down. Instead, think of it as a reason to seek treatment. A study in the American Journal of Psychiatry found that children bounce back quickly when Mom's symptoms improve. Study researchers say their findings would likely apply to dads as well. Even if you feel like past treatment hasn't offered relief, don't let that discourage you from seeking help. Treating depression involves trial and error, and the majority of patients who stick with it will feel better. Antidepressants, talk therapy and regular exercise can all help. Talk to your doctor about your options
- Go easy on yourself: Self-compassion may be more effective than drill sergeant techniques. It's also linked to greater happiness.
 - Don't beat yourself up for eating that piece of cake or missing a day (or 12) at the gym. Instead, be encouraging and supportive, as you would be to a friend. Having compassion for yourself and your perceived failures may be more effective than tough love when it comes to motivation. Berating yourself can make you feel worse and less inclined to change. On the other hand, treating your shortcomings with kindness and understanding can help protect you from negativity and make you feel more optimistic about your ability to change. The next time you feel discouraged, give yourself a pep talk instead of a lecture. Think of what you might say to encourage a child or a close friend, and treat yourself to that same kindness.
- Meditate your way to better grades: Research suggests that meditating for 24 minutes a day can boost academic achievement.
 - Meditating for 12 minutes twice a day can teach you more than how to say "om." It may also help improve grades in school. Middle school students who practiced Transcendental Meditation for 12 minutes at the start and end of the school day boosted their reading and math scores after three months, compared to students who were given non-meditating quiet time. According to the study, teachers also reported students were calmer, happier and better able to focus on their schoolwork. Transcendental Meditation doesn't focus on breathing or chanting, like some other forms of meditation. Instead, it encourages a restful state of mind beyond thinking. Past research has shown that it can help in other ways too. A 2009 study found Transcendental Meditation helped alleviate stress in college students, while another found it helped reduce blood pressure, anxiety, depression and anger. New to meditation? Try out the Cleveland Clinic Stress Meditations iPhone app.
- Tempted to give up? Don't. Your beliefs about willpower determine how long and how well you're able to work on a tough mental exercise.
 - Think you don't have what it takes to finish a difficult project? According to researchers at Stanford University, your beliefs about willpower greatly influence how long and how well you're able to perform a difficult task. If you think of willpower as something that's limited, you're more likely to tire out when working on a challenge. Believing self-discipline is not easily depleted, on the other hand, will allow you to persevere for longer. The same holds true for procrastinating and taking breaks. Thinking that your brain needs a few minutes to recharge determines how long you'll be able to stick with a task before losing focus. According to procrastination expert Piers Steel, willpower has enormous reserves, and trusting in your ability will help you accomplish your goals



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*In Loving
 Memory of Jessica Lefrke*